THE SUPREME COURT OF APPEAL OF SOUTH AFRICA

MEDIA SUMMARY OF JUDGMENT DELIVERED IN THE SUPREME COURT OF APPEAL

From: The Registrar, Supreme Court of Appeal

Date: 16 October 2025

Status: Immediate

The following summary is for the benefit of the media in the reporting of this case and does not form part of the judgments of the Supreme Court of Appeal

NT Makhubele Enterprises CC and Others v Business Partners Limited (83/2023) [2025] ZASCA 151 (16 October 2025)

Today, the Supreme Court of Appeal (SCA) dismissed an application for the review of the taxing master's refusal to state a case for review of taxation in terms of rule 17(3) of the Rules Regulating the Conduct of the Proceedings of the Supreme Court of Appeal of South Africa (the SCA rules).

The facts which gave rise to the application are briefly as follows. On 20 September 2018, the applicants applied to this Court for leave to appeal against four judgments of the Gauteng Division of the High Court, Pretoria (high court) leave to appeal having been refused by that court. That application was refused with costs on 21 November 2018. On 24 January 2019, the applicants petitioned the President of this Court for reconsideration of the decision refusing leave to appeal in terms of s 17(2)(f) of the Superior Courts Act 10 of 2013. That application was also dismissed with costs on 28 October 2020. The respondent thereafter presented its bills of costs (the bills) for taxation, having given proper notice thereof to the applicants in terms of the SCA rules. The bills were taxed on 30 July 2025, and the taxing master's allocatur was issued on the same day. The applicants were not present, nor represented at the taxation.

On 6 August 2025, the applicants filed a request for the taxing master to state a case in terms of rule 17(3) of the SCA rules. The applicants relied on various grounds, including that the court orders bore incorrect case numbers; that one of the orders was not properly served on them; alleged defects in the certificate which accompanied the bills; and that reliance was placed on a document which was in a language that the applicants could not understand thereby violating their constitutional rights to dignity, language and culture and, access to the courts.

Smith JA held that the taxing master, declined to state a case because a party not in attendance and who fails to object before the taxing master cannot invoke review of the taxation procedure in terms of SCA rule 17. The applicants do not challenge the exercise of the taxing master's discretion in respect of individual items in the bills but seek a comprehensive review of the taxation and the taxing master's refusal to state a case, based on the principle of legality.

Smith JA held further that SCA rule 17(3) does not provide for judicial review of taxation based on the principle of legality nor does it allow review of a taxing master's decision to decline a request to state a case. It follows that the taxing master acted correctly in declining the request to state a case for taxation.

In the result, the application is dismissed with costs.

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